

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BENCHMARK HOMES, INC.,]	CIVIL ACTION NO. 8:03CV527
a Nebraska corporation,]	
]	
Plaintiff,]	
]	
vs.]	
]	
LEGACY HOME BUILDERS, L.L.C.,]	
a Nebraska limited liability company,]	
MARK VOSIKA, an individual, and]	
PRIME DESIGNS INCORPORATED,]	
a Nebraska corporation,]	
]	
Defendants.]	

**PLAINTIFF'S MOTION TO
JOIN B3 ARCHITECTS, INC. AS A PARTY PLAINTIFF**

COMES NOW the Plaintiff, Benchmark Homes, Inc. (hereinafter "Benchmark"), pursuant to Rules 15(a), 17(a) and 21 of the Federal Rules of Civil Procedure, and this Court's January 26, 2006 Order (Filing 134), and moves this Court for an Order joining B3 Architects, Inc. (hereinafter "B3") as a party plaintiff in this matter. In support of its Motion, Plaintiff shows:

1. This Court found that B3 owned the subject copyright in the Hamden when the defendants allegedly infringed the copyright and when the present litigation was filed. Order at 7 (Filing 134).
2. This Court held that Benchmark had no basis for standing when the case was filed and that it was not a real party in interest in any other claim. Order at 15 (Filing 134).
3. This Court held that B3's damages are the same as those claimed by Benchmark. Order at 16 (Filing 134).

4. This Court held that joining B3 as a party plaintiff will not affect the litigation or prejudice the defendants. Order at 16 (Filing 134).

5. This Court granted Benchmark leave, until February 6, 2006, to join B3 as a party plaintiff in this matter. Order at 17 (Filing 134).

A proposed Order is respectfully submitted herewith.

BENCHMARK HOMES, INC.,
a Nebraska corporation, Plaintiff,

By s/Shane M. Niebergall
Dennis L. Thomte, #14196
Denise C. Mazour, #17982
Shane M. Niebergall, #21311
THOMTE, MAZOUR & NIEBERGALL
2120 South 72nd Street, Suite 1111
Omaha, NE 68124
(402) 392-2280
(402) 392-0734 – fax

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Joseph E. Jones, Esq.
Patrick S. Cooper, Esq.
FRASER STRYKER, MEUSEY, OLSON,
BOYER & BLOCH, P.C.
500 Energy Plaza
409 South 17th Street
Omaha, NE 68102

Andrew J. Hilger, Esq.
GRUEL & HILGER, L.L.C
5015 Dodge Street
Omaha, NE 68132

s/Shane M. Niebergall
SHANE M. NIEBERGALL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served upon Defendant Mark Vosika by mailing a copy thereof by regular United States mail, postage prepaid, to the following on February 6, 2006:

Mark Vosika
8002 South 166th Street
Omaha, NE 68136

s/ Shane M. Niebergall